



U.S. Attorney's Office since January 3, 2019. See Government's Exhibit 1, letter to defense dated February 4, 2019.

Further, the victim's Facebook account, which contains child pornography, was converted into a excel spreadsheet by the FBI. This excel spreadsheet only converted the messages in the victim's Facebook messenger account, which include written messages between her and the defendant. A copy of this spreadsheet was given to the defense on November 20, 2018. Again, the full account is available for review at the U.S. Attorney's Office. The full account contains numerous child pornography images of the minor victim, as well as, personal messages between the victim and her family, and will not be copied for the defense, but they can view it at the U.S. Attorney's Office.

Recently an investigator at the U.S. Attorney's office figured out how to convert the defendant's Facebook account into a pdf document with the images of child pornography disabled and thus cannot be viewed. The defendant's Facebook account was then given to defense on a CD (without the child pornography) on November 8, 2019.

The forensic analysis of the defendant's cell phone showed it contained 46,000 images and over 3000 videos. Many of these images are of pornography and the government has not be able to insure that none of them are the victim or another child. Further, there are several images of the minor victim in just her bra and underwear on the defendant's cell phone. The forensic analysis is available for the defendant/defense attorney to come and view at the U.S. attorney's office.

## **II. LEGAL ANALYSIS**

Due to the unique nature of child pornography, discovery in these matters is governed by

the Adam Walsh Act, Title 18 United States Code 3509(m). The Adam Walsh Act requires only that the defendant be given ‘ample opportunity’ to examine the evidence, the defense and the defendant in this case, have been given more than ample time to review and inspect all computer forensic and Facebook material. “[U]nder the Adam Walsh Act, ‘a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography ..., *so long as the Government makes the property or material reasonably available to the defendant.*’ (emphasis and ellipsis in original) (quoting 18 U.S.C. § 3509(m)(2)(A) ).” *United States vs Mitchell*, 725 Fed.Appx. 544, 545 (9<sup>th</sup> Cir. 2018). The Government has made the material reasonably available to the defendant and defense. It is available for them to come view at the U.S. Attorney’s Office. The materials are downloaded onto an off-network computer in a secure viewing room.

### III. CONCLUSION

Based on the foregoing reasons, the Government respectfully requests that the Court deny the Defendant’s Motions to Compel.

Respectfully submitted,  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 18, 2019, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

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